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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,415

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EXAMINER

PERRIN, JOSEPH L

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,415	<b>Applicant(s)</b> KIM ET AL.	
	<b>Examiner</b> Joseph L. Perrin, Ph.D.	<b>Art Unit</b> 1792	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-15 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. Claim 1 has been amended to include the limitations of claim 6 and to remove newly added language from the previous amendment which resulted in rejections under § 112. Claims 16-23 remain withdrawn from consideration.

### ***Response to Arguments***

2. Initially, the Examiner notes that applicant's arguments on page 7 of the instant response are considered moot in view of the fact that a translation of the Japanese reference supplied by applicant has been made of record.

3. Applicant's arguments filed 23 June 2008 have been fully considered but they are not persuasive. In view of applicant's amendment incorporating claim 6 into claim 1, the rejection of claims 1-3 and 11-14 over SHUNICHI and OGAWA is rendered moot. However, since claim 6 was previously rejected over SHUNICHI and OGAWA under 35 U.S.C. § 103(a) and applicant has failed to provide any evidence or showing to refute the Examiner's position, this rejection is maintained for at least reasons of record.

4. Regarding applicant's arguments, applicant argues that RIEGER discloses a "Shore hardness of 30" whereas applicant claims a "Shore hardness of approximately 80". However, this rejection is an obviousness rejection and not an anticipation rejection. As indicated in the previous rejection, the "Shore hardness" is a result effective variable and it is well settled that discovering an optimum value of a result

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effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Thus, applicant remains wholly silent with respect to any evidence or showing of why the claimed "Shore hardness" value of the claimed leg pad defines a patentable invention over known leg pads despite the Examiner's repeated requests for a showing of unexpected or unpredictable results (it is noted that all materials used in the prior art leg pads have a Shore hardness and the selection of a material to achieve a particular Shore hardness to yield the predictable results of selecting a Shore hardness for an intended purpose is *prima facie* obvious). Until such time, the Examiner finds no reasons as to why or how the claimed invention is a patentable modification in view of the prior art of record and taking into consideration the level and skill generally available to one having ordinary skill in the art.

5. The Examiner notes that applicant's claimed invention remains rejected as being *prima facie* obvious over the prior art of record. Given the evidence of record, it appears each and every structure as claimed is known in the prior art and that substituting known vibration attenuating polymers in selecting a vibration attenuating polymer pad would achieve the same predictable result as those of the claimed invention. As repeatedly requested throughout prosecution, applicant is urged to clearly define the claimed apparatus by structural limitations and provide proper showing or evidence for secondary considerations which comply with 37 CFR 1.111(b). General allegations of patentability without evidence or showing of how and why the claims are patentable are still considered as failure to comply with 37 CFR 1.111(b). Note that 37 CFR 1.111(b) requires applicant to specifically point out how the language of the claims

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patentably distinguishes them from the references. Thus, applicant's repeated broad allegations that they "distinguish" without evidence or proper showing of how and why (i.e. specifically) is not considered to comply with 37 CFR 1.111(b). Until such time, the invention as claimed is considered *prima facie* unpatentable.

### ***Claim Objections***

6. Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In claim 1, the leg pad Shore hardness is claimed as approx. 80. In claim 7, the Shore hardness is claimed as approx. 30. Thus, claim 7 does not further limit claim 1 because the leg pad cannot have a Shore hardness of both 80 and 30. Clarification and correction are required.

### ***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-5, 7 & 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHUNICHI in view of OGAWA, and further in view of RIEGER. SHUNICHI discloses a washing machine comprising a conventional outer housing (10), legs (32/27) fitted to the bottom of the cabinet, leg pads comprising a first member contacting

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the floor and comprising hard blocks (29/44/47) and soft blocks (28/43/46) in contact with each other and a second member (32/23) in contact with the first member for attenuating washing machine vibration (see entire document, for instance, Figures 1-6 and relative associated text). While SHUNICHI discloses the use of hard and soft block polymers and the use of first and second rubber materials in a leg pad for a washing machine to provide vibration attenuation, SHUNICHI does not appear to disclose the claimed leg pad comprising first and second members of different materials wherein one member comprises a block copolymer of hard blocks and soft blocks which make a net form or a Shore hardness of approximately 80.

OGAWA teaches that it is known to provide selected block copolymers for their desired dampening properties (see, for instance, col. 10, lines 46-59) and the use of butyl rubber (i.e. a first member/material) with the block copolymers (i.e. a second member/material) (see, for instance, col. 12, lines 25-30). Thus, all of the component parts are known in SHUNICHI and OGAWA. The only difference is the combination of “old elements” into a single dampener by combining the block copolymer of SHUNICHI and the butyl rubber of OGAWA. It would have been obvious to one having ordinary skill in the art to combine the butyl rubber member of OGAWA with the block copolymer leg dampening member of SHUNICHI to achieve the predictable results of producing desired dampening properties based on known dampening properties of selected dampening materials.

Regarding claims 11-12, SHUNICHI discloses the use of elastic block polymers as vibration dampers in washing machine legs as claimed but does not expressly

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disclose how the leg pad and leg are connected (notwithstanding the fact that the leg pad and leg are clearly connected by some type of connecting means). OGAWA teaches that it is known in the polymer manufacturing art to apply an elastomeric block polymer with damping properties using conventional adhesive means including insert molding (also readable on an “adhesive”; see col. 12, lines 40-50). Re claim 14, Figure 4 also shows one block being located between the top and bottom portion of another block which reads on a “the first member ... projection passed through the second member”.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the block polymer leg pads of SHUNICHI by conventional polymer molding or forming processes such as insert molding and the like (also readable on an “adhesive”) as described by OGAWA in order to arrive at applicant’s invention. Such conventional polymer molding and forming processes would be well within the knowledge generally available to one having ordinary skill in the art and, absent secondary considerations, such conventional processes are not considered a point of novelty.

Further in view of RIEGER, while SHUNICHI discloses the use of elastic polymers as vibration dampers in washing machine legs as claimed SHUNICHI does not expressly disclose any material detail such as the types of polymers or the properties associated therewith (i.e. typical polymer properties such as glass transition temperature or shore hardness). RIEGER discloses that it is known that block polymers may be used for vibration dampening (see col. 6, line 27) and in household appliances

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(col. 6, line 44), and that such block polymers may have specific glass transition temperatures (-50 ~ 30°C glass transition temperature range; see col. 3, line 49 *et seq.*) and specific shore hardness (i.e. a shore hardness of 30 to achieve “superior softness”; see col. 4, line 29 *et seq.*) which are dependent on the type of material and is adjustable based on material of the polymer.

Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the material polymer/copolymer based on desired application (i.e. increasing or decreasing hardness/softness), as described in RIEGER, in a washing machine dampening structure as described in SHUNICHI and OGAWA in order to achieve desired properties such as hardness/softness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

9. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over SHUNICHI in view of OGAWA and RIEGER, and further in view of YAMAMOTO.

Recitation of SHUNICHI, OGAWA and RIEGER are repeated here from above.

SHUNICHI discloses the use of elastic polymers as vibration dampers in washing machine legs as claimed but does not expressly disclose any material detail of the polymer composition. YAMAMOTO teaches that it is known in the elastomeric polymer art to use polystyrene as a hard block and vinyl-polyisoprene as a soft block in a block



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copolymer blended with styrene-butadiene-styrene to form an elastomeric composition useful in applications such as vibration damping (see abstract).

Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the vibration damping polymer/copolymer of YAMAMOTO in a washing machine dampening structure as described in SHUNICHI in order to provide an elastomeric composition with vibration dampening properties in washing machine legs. Moreover, there would be a reasonable expectation of success in applying the elastomeric polymer of YAMAMOTO in the washing machine legs of SHUNICHI, OGAWA and RIEGER in order to achieve the desired vibration damping properties associated with the disclosed elastomeric polymer composition.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over SHUNICHI in view of OGAWA and RIEGER, and further in view of DONALD. Recitation of SHUNICHI, OGAWA and RIEGER are repeated here from above. While SHUNICHI, OGAWA and RIEGER, in the aggregate, disclose the use of a first material of block copolymers having hard and soft segments and a second material of butyl rubber for their desired properties, neither reference discloses duplicating the first material as a third material.

DONALD teaches common knowledge flexible block copolymers including “triblock” and “multi-block” (col. 4, lines 26-28) and their use in “major appliances” as “vibration dampers” (col. 30, lines 33-34). Therefore, the position is taken that the

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combination of “old elements” for their intended purpose to achieve the predictable results of providing dampening to an appliance would have been obvious to one having ordinary skill in the art since such diblock and triblock polymers are common knowledge in the art and using plural blocks would have been an obvious modification since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8; *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Moreover, it would have been common sense to one having ordinary skill in the art to combine dampening materials in order to achieve the predictable results of their inherent dampening properties and the selection of such known dampening materials to achieve dampening properties would have resulted in a reasonable expectation of success.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 8:00-4:30.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Perrin/  
Joseph L. Perrin, Ph.D.  
Primary Examiner  
Art Unit 1792

JLP